

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 3, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 3, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; David Foster; John McKay Jr.; Debra Miller Stevens; Lowell Richardson and John Todd. The following members were absent: Bob Dool; Bill Ellison; Matt Goolsby; Joe Johnson; Bill Ramsey and Chuck Warren. Staff members present were: Dale Miller, Director; Dave Barber, Advance Plans Manager; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. There were no minutes for approval.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00045: One-Step Final Plat – HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North.

NOTE: This site is located in the County in an area designated as “Andale urban growth area” by the Community Investments Plan 2015-2035.

STAFF COMMENTS:

- A. The applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site water wells. A memorandum shall be obtained specifying approval.
- B. The plat proposes connection to City of Andale’s sanitary sewer in accordance with that city’s standards. A letter of confirmation shall be provided from Andale.
- C. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- D. The plat proposes three openings along 61st Street North. County Engineering has approved the access controls subject to a letter from Andale approving the access controls.
- E. County Stormwater advises the drainage plan is approved contingent on revisions.
- F. County Stormwater requires limitations on impervious area and has requested language on the plat’s text. A restrictive covenant regarding water quality requirements should also be filed and referenced in the plat’s text. County Stormwater will work with the applicant’s engineer on the covenant. A stormwater permit and a Notice of Intent are needed.

- G. A restrictive covenant shall be submitted regarding the reserves, which sets forth ownership and maintenance responsibilities of the private drives.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

Q. Perimeter closure computations shall be submitted with the final plat tracing.

R. Westar Energy requests additional easements which will be provided by separate instrument on the adjoining Hieger East Addition. Heide Bryan, Subdivision Representative, will be the contact for this plat. She can be reached at 316-261-6554. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.

S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

NEIL STRAHL, PLANNING STAFF briefly updated the Commission on Staff Report items as follows: Item B. – he reported that a letter of confirmation was received that the plat will be connected to the Andale sewer system; Item D. – access controls on 61st Street were approved by the County subject to approval by Andale. He reported that they have received a letter from Andale also approving the proposed access controls. He also reported that the City of Andale has not expressed an interest in annexing the property; and Item E. – he reported that the drainage plan has been approved.

WILL CLEVENGER, RUGGLES & BOHM, ON BEHALF OF THE APPLICANT said they are in agreement with staff comments. He said he would be happy to answer any questions.

FOSTER referenced item B. regarding the letter of confirmation from the City of Andale on the sanitary sewer connection. He asked if that letter includes that the applicant sign a waiver of annexation.

CLEVENGER said he didn't remember that particular language on the annexation and there was also no such language in the letter.

RICHARDSON commented that the letter they were referring to was not included in the agenda packet. He said he thought he got a copy of the letter in an e-mail.

STRAHL indicated that he thought he provided the correspondence to the Subdivision Committee via e-mail.

RICHARDSON said it should also have been provided with the agenda report at this meeting.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation. It was noted for the record that the City of Andale was contacted and did respond.

MCKAY moved, **TODD** seconded the motion.

FOSTER said he would like to make a substitute motion after making some comments. He said he reviews plats as they relate to planning documents to see how the plat fits in with its location. He read the definition of RR Rural Residential, which is what the case is being platted as. He said this does not meet the definition of RR due to its proximity to the City of Andale. He said it also has three entrances, private drives, on a total of nine lots. He said the east addition approved adjacent to this has another private drive with an additional three lots. He said that is 12 properties putting traffic out onto an arterial street immediately across from a collector street that serves hundreds of homes located to the south. He said from an access standpoint this creates a dangerous situation especially over time as things develop in the area. He referenced the previous and updated Comprehensive Plans. He said the previous Plan designated this as a 2030 growth area. He said the updated Comprehensive Plan restricts the Urban Growth Area to the northeast area of the City. He said this proposal does not meet three different Comprehensive Plans, including the City of Andale's Plan. He said the area is designated as potential residential and specifically urban type development adjacent to the City. He said the lot sizes are ten to twenty times urban lot sizes. He concluded by stating that the Subdivision Regulations promote connectivity between plats within the City but this effectively cuts off development northeasterly for the City of Andale.

SUBSTITUTE MOTION: To approve subject to the plat being resubmitted to have no more than two openings onto the arterial street and that the applicant be required sign a waiver of annexation.

FOSTER moved, **NEUGENT** seconded the motion.

FOSTER said so many rural communities are losing people and annexation is one of the few ways they can save themselves as a City. He said the wavier of annexation is very critical.

DENNIS commented that apparently what the Subdivision Committee gets is a lot more detailed than what is provided to the Planning Commission.

RICHARDSON said he was looking at the map and asked if this was outside the Urban Growth Area.

FOSTER said no, it was right in the way of any northeasterly expansion and directly in line with the sewage treatment plant.

DAILEY commented that Andale hasn't made an effort to annex the area which they can do by State Law if the area is platted as long as it is adjacent to the City. He said Andale can annex the area if they want to. He said if Andale doesn't care, he doesn't think the Planning Commission should stop the proposal.

RICHARDSON asked for clarification from legal regarding Andale's ability to annex the area.

JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR verified that Andale could annex the area in the future since it is adjoining the City limits.

FOSTER referenced a situation that happened in Derby where it was so difficult to annex an area that the City eventually gave up. He said a waiver would really make any annexation effort go smoothly. He referenced work his company has done where water, sewer and electrical services were extended without a waiver. He said everyone regrets not doing that when looking to grow their city.

CHAIR NEUGENT asked staff to clarify their conversation with the City of Andale.

STRAHL said the Subdivision Regulations required letters from Andale on the sewer system and access and both letters were received.

RICHARDSON asked if the Commission can require this letter of annexation as part of the approval process.

DIRECTOR MILLER referred to County legal counsel; however, he said he believed the Commission could require anything that they think is reasonable and consistent with what will make this work as a condition of approval.

WAGGONER said he doesn't know if the Commission can or can't require the waiver of annexation, but added that typically those come from cities.

TODD said his view is that the Andale City Council is the policy making body and if they voted to approve this, it is contrary for the Planning Commission to go against that.

FOSTER requested that staff look into a policy that future plats adjacent to cities require a waiver of annexation for any utility connection.

DIRECTOR MILLER commented that Planning Staff cannot force another city to give them something they don't have any control over.

FOSTER referenced Subdivision Regulations and said he thought there was a way to do that. He said he would look into that further.

DIRECTOR MILLER indicated that Subdivision Regulations apply to the City of Wichita and the unincorporated portions of Sedgwick County. He said other cities are not party to the requirements of the Subdivision Regulations. He indicated that the simple answer was that the Commission not approve the plat.

CHAIR NEUGENT clarified that the plat is adjacent to the City of Andale but it is not in Andale's subdivision jurisdiction. She said that is confusing her and asked staff to explain it.

STRAHL indicated that some cities have extra territorial subdivision jurisdiction beyond their city limits but Andale does not.

CHAIR NEUGENT commented that having worked for the City of Haysville she agrees that annexing a property is not as simple as it sounds. She said annexation is a process and sometimes you are successful and sometimes you are not. She said Haysville did require waivers of annexation before they would extend services. She said the City of Andale was contacted and the elected governing body should be making those kinds of decisions, in her opinion. She said that is where she is a little bit lost on making the waiver a requirement. She concluded by stating that she can't help the politics going on in the City of Andale.

There was brief discussion concerning extra territorial jurisdiction and which small cities have it.

The **SUBSTITUTE MOTION** failed (2-6). **NEUGENT, DENNIS, MCKAY, DAILEY, TODD, MILLER STEVENS** – No.

The **ORIGINAL MOTION** carried (7-1). **FOSTER** – No.

- 2-2. **SUB2016-00004: One-Step Final Plat – NINNESCAH SUBDIVISION ADDITION**, located on the north side of West 13th Street North, West of North 279th Street West.

CHAIR NEUGENT announced that the item has been deferred until March 17, 2016.

- 2-3. **SUB2016-00005: One-Step Final Plat – MORRIS ADDITION**, located on the west side of North 159th Street East, North of East 21st Street North.

NOTE: This unplatted site is located in the County adjoining Wichita's boundary and annexation is requested. The site is currently zoned Rural Residential (RR) and will be converted to Single-Family Residential (SF-5) upon annexation.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant may submit a request for annexation. Upon annexation, the property will be zoned Single-Family Residential (SF-5) and allow for the lot sizes being platted. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City of Wichita Public Works and Utilities Department requests the applicant extend water (distribution) to serve all lots, and extend sewer (laterals) to serve all lots. In-lieu-of-assessment fees are due on water (transmission) and sewer (mains).
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the applicant's drainage plan.
- E. Traffic Engineering has approved the access controls. The plat proposes one opening along 159th Street East.

- F. City Fire Department advises the drive surface needs to meet standard regulations for the Fire Department access road. The drive will need to meet Fire Code width of 26-foot width at spots where hydrants are located, per International Fire Code, Appendix D. At 20-foot wide, no parking will be allowed on either side of the drive.
- G. City Public Works requests a guarantee for the paving of the private drive. The cul-de-sac must meet a minimum 35-foot paved radius.
- H. A restrictive covenant shall be submitted regarding Reserve B, platted for private drive purposes, which sets forth ownership and maintenance responsibilities of the private drive.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- M. County Surveying advises in the legal description the bearing of S88°56'59"E on the fifth line down from the top needs corrected to S88°56'59"W.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- V. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (8-0).

2-4. SUB2016-00006: One-Step Final Plat – FLINT HILLS MATERIALS ADDITION,
located east of Broadway on the north side of 29th Street North.

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water is available to both lots. The applicant needs to extend sewer (laterals) to both lots.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes two access openings along 29th Street North.

- E. The platlor's text shall specify "Lots, Blocks, Streets and Reserves".
- F. The correct name of the plat shall be referenced in the MAPC signature block.
- G. The platlor's text language referencing utility easements and drainage and utility easements is not reflected on the face of the plat.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The platlor's text shall specify "the owner, its successors or assigns" in the platlor's text regarding the ownership and maintenance of the reserves.
- K. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for Lot 1, Block A. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- L. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- M. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- N. County Surveying advises all the monuments used to establish the plat boundary need to be shown.
- O. County Surveying advises that if the northeast corner of Lot 1, Block A cannot be set, monuments shall be set on offsets from said corner.
- P. County Surveying advises the railroad easement on Lot 1, Block A needs dimensioned and located.
- Q. County Surveying advises dimensions need added on the south and east lines of Reserve A, and a bearing on the east or west line needs added.

- R. County Surveying advises dimensions need added on the north line of Lot 1, Block B.
- S. County Surveying advises dimensions need added on the north and east lines of Reserve B.
- T. County Surveying advises the width of the Kansas Power & Light Easement on Lot 1, Block B needs shown.
- U. County Surveying advises Lot 1, Block B needs located to the section line.
- V. County Surveying advises the calculated from described distance of 23.42 feet needs to also be shown between Blocks A and B.
- W. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- X. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Y. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Z. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- AA. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- BB. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- CC. Perimeter closure computations shall be submitted with the final plat tracing.

- DD. Kansas Gas Service Company advises of a 6-inch steel pipeline along the north side of 29th Street that crosses the proposed full movement openings. The land owner should be made aware of this before they proceed with finalizing the plat. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- EE. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (8-0).

2-5. SUB2016-00008: One-Step Final Plat – ALLEN WILLIAMS 2ND ADDITION,
located on the Northeast corner of Hoover Road and Pawnee (extended).

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises water is available to Lots 1 and 2 and sewer is available for Lot 2. The applicant needs to extend sewer (laterals) to Lot 1.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. The standard floodplain language is needed in the plat's text: "FEMA floodplain and regulatory floodway boundaries are subject to periodic change and such change may affect the intended land use within the subdivision."
- E. The plat proposes three access openings along Hoover. Traffic Engineering has approved the north two openings and requests a 30-foot access opening along the south line of the line of the plat in alignment with an access, drainage and utility easement. A joint access easement is needed with the property to the south.
- F. Traffic Engineering has approved a 10-foot sidewalk and utility easement which has been platted in lieu of an additional 10-foot street right of way.

- G. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- H. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- I. County Surveying advises of an overhead electric line approximately 28 feet north of the south line of Lot 1, Block A not shown in a utility easement.
- J. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

Q. Perimeter closure computations shall be submitted with the final plat tracing.

R. Westar Energy requests additional easements. Ennidh Garcia is the Construction Services Representative for the southwest area and will be the contact for this plat. He can be reached at 316-261-6734. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.

S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (8-0).

3. PUBLIC HEARING – VACATION ITEMS

There were no vacation items.

PUBLIC HEARINGS

4. Case No.: DER2015-00007 - Review of Garden Plain Urban Area of Influence request from February 18, 2016 Meeting.

JUSTIN WAGGONER, ASSISTANT COUNTY COUNSELOR briefly commented that the item was heard at the February 18, 2016 Planning Commission meeting. He said the Commission voted 7-2 to take staff's recommendation which was to increase the Garden Plain Urban Growth Area but not as much as had been requested by Garden Plain. He said representatives from Garden Plain were present and gave a presentation and no one spoke in opposition of the item. He said prior to the vote the question had been raised as to what type of majority was required. He said there was discussion on whether it would be a simple majority of the quorum that was present. He said there was also a final opinion that it was actually going to require a majority of the Planning Commission as a whole, which would mean 8 of the 14 Commissioners. He said after further inquiry it was decided that it only required a simple majority of the quorum that was present. He said so the 7-2 vote that occurred should have carried the motion.

WAGGONER said the explanation behind that ruling is when it was the Zoning Area of Influence provision, the map of the ZAI's was part of the Unified Zoning Code (UZC). He said the Planning Commission Bylaws indicate that any change to the UZC requires a majority vote of the Planning Commission as a whole. However, the Urban Area of Influence map is not incorporated into the UZC. He said as a result it would only require a vote of 5 of the 9 Commissioners present to carry the item. He said because the advice was given before the vote, staff wanted the Planning Commission to hear the explanation and if the majority of those Commissioners present today want to either re-open and

reconsider, revote or set the item for reconsideration at a later meeting the Commission can vote to do that. He said if no action is taken today, Planning Staff will present the item to the Board of County Commissioners with the recommendation in favor of the revised Urban Growth Area staff recommended. He added that Garden Plain Planning Commission staff is present at today's meeting.

DENNIS clarified that if the Commission decides on a revote at today's meeting a simple majority of votes would pass the item. He said if they don't decide to open the item for discussion at today's meeting, the item will go to the County Commission as an approval of the lesser Urban Growth Area recommended by staff.

WAGGONER confirmed that was correct.

FOSTER said unfortunately he was not able to hear that item so he doesn't feel qualified to vote today and there is no Staff Report. He said he was surprised that the smaller area was approved.

CHAIR NEUGENT said the majority of the Commissioners present felt the staff recommendation was appropriate.

MILLER STEVENS said the Commission received information on the case because she recalled reading it although she was not present at that meeting. She added that ZAI's were discussed at length during Comprehensive Plan Meetings. She said there has been a lot of discussion on boundaries and comment was made that those could be looked at and perhaps extended, etc. She said rehashing it today won't bring any more light to the situation.

CHAIR NEUGENT said she sat through the hearing and heard the testimony on this request. She said the Commission voted and she does not believe this explanation would have changed how anyone voted on the issue. She suggested that the Commission go ahead with that decision and see how it all shakes out at the County level.

DENNIS said it was heard by nine people and all voted on the issue. He said he thinks the vote from that meeting should stand.

RICHARDSON said he concurred.

CHAIR NEUGENT asked about taking a vote to confirm the previous vote.

WAGGONER said he did not believe there was a requirement for a motion. He said Planning Staff was ready to take this forward to the County Commission.

TODD suggested sending the item to the Board of County Commissioners and let them make the policy.

It was the general consensus that Planning Staff move forward with the vote on the item taken at the February 18, 2016 meeting.

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5. **Case No.: ZON2016-00005 and CUP2016-00004** - Christopher and Rosalynn Redmond (Owners) and Baughman Company, P.A. c/o Russ Ewy (Agent) request a County zone change request from SF-20 Single-family Residential to LC Limited Commercial and associated Community Unit Plan (CUP) request on property described as:

A tract of land described as the East 660 feet of the South 660 feet of the Southeast Quarter of Section 36, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; EXCEPT for road rights-of-way and EXCEPT that part deed to the City of Wichita.

BACKGROUND: The applicant requests LC Limited Commercial (LC) zoning subject to the development standards contained in the proposed Redmond Commercial Community Unit Plan (CUP) DP-339. The unincorporated, 8.3-acre site is zoned SF-20 Single-family Residential (SF-20); it is unplatted and undeveloped. The Wichita-Sedgwick County Unified Zoning Code (UZC) requires a CUP for LC zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and organized commercial development to certain standards prescribed by the UZC.

The site is located at the northwest corner of South 119th Street West and West Pawnee Avenue. The unincorporated site is surrounded on four sides by the City of Wichita. North and west of the site are SF-5 Single-family Residential (SF-5) zoned residential neighborhoods in the Turkey Creek 2nd Addition. South of the site, across West Pawnee is LC and GO General Office (GO) zoned property under DP-312, The Girrens Addition Commercial CUP. DP-312 is undeveloped and used for agriculture and one single-family residence. DP-312 has similar development standards as those proposed for the application area, and identical use restrictions. East of the application area, across South 119th Street West, is an SF-5 zoned church. Southeast of the site, at the southeast corner of South 119th Street West and West Pawnee Avenue, is unincorporated, SF-20 zoned land that is used for agriculture with no improvements.

The proposed DP-339 is divided into three Parcels. The applicants propose all permitted uses in the LC zoning district with the following prohibitions: adult entertainment, sexually oriented business, correctional placement residences, night club in the city or county, and tavern/drinking establishment. Restaurants with drive-through windows, convenience stores, service stations and vehicle repair uses are not permitted within 200 feet of residential uses. Restaurants with drive-through windows shall be designed to ensure queuing lanes will not align vehicle headlights to face residential zoning. No overhead doors shall be allowed within 200 feet of residential uses and shall not be facing any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

The proposed DP-339 includes the UZC required masonry wall where abutting residential zoning. It also includes parking, setback, signage, lighting, landscaping and screening standards that meet or exceed code requirements and restrictions. The proposed CUP includes standards for architectural consistency, cross-lot circulation, and pedestrian circulation connected to the sidewalks along arterial streets.

CASE HISTORY: The site is unplatted and undeveloped.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residential
SOUTH:	LC, GO	Agriculture, single-family residential
EAST:	SF-20	Church
WEST:	SF-5	Single-family residential

PUBLIC SERVICES: South 119th Street West and Pawnee are both section line arterial streets at this location with 50-foot half-width right-of-way (ROW) adjacent to the application area, tapering to 75-foot half-width ROW at the intersection. The applicant anticipates dedicating 10 feet of ROW on each frontage through platting, putting each frontage at the Access Management standard of 60 feet. Proposed access points on the CUP meet Access Management spacing. Access controls, turn lanes, decel lanes, a drainage plan and other improvements will be finalized during platting. 119th currently has four travel lanes, a central turn lane and an intersection right turn lane at this location. Pawnee currently has two lanes with a central turn lane and right turn lane at the intersection. Current traffic counts on this portion of 119th and Pawnee are 4,825 and 1,095 vehicles per day respectively. The proposed CUP could have a total of 126,167 commercial square feet. With the ITE Manual estimate of 42 cars per day trip generation per 1000 square feet of shopping center space, this CUP could generate an additional 5,292 vehicles per day to this intersection. All utilities are available to the site, and the CUP indicates that all utilities will be placed underground.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita Growth Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "Residential and Employment Mix." The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP and zone change be APPROVED, subject to platting within one-year and the following conditions:

- A. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and west of the site are SF-5 zoned residential neighborhoods in the Turkey Creek 2nd Addition. South of the site, across West Pawnee is LC and GO zoned property under DP-312. DP-312 is undeveloped and used for agriculture and one single-family residence. East of the application area, across South 119th Street West, is an SF-5 zoned church. Southeast of the site, at the southeast corner of South 119th Street West and West Pawnee Avenue, is unincorporated, SF-20 zoned land that is used for agriculture with no improvements.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-20 and could be developed with single-family residences on half-acre lots. If the site were annexed into the City of Wichita, the zoning would automatically become SF-5, and the site could be developed with urban scale lots. However, this arterial street intersection location is not conducive to low density residential development. Arterial street intersections are suitable for commercial development, as proposed by the applicant.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The LC zoning request and CUP will allow significantly more intense development on this site. Nearby property could be most affected by increased traffic to this site, and will be affected by increased light, noise, trash and other impacts of commercial development. The proposed CUP and existing development codes should mitigate those impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita Growth Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "Residential and Employment Mix." The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.
5. Impact of the proposed development on community facilities: The project will generate increased traffic and demand for City services at this site. However, the Comprehensive Plan anticipates commercial development to occur at arterial intersections such as this location. Final access controls and improvements will be determined during platting.

JESS MCNEELY, Planning Staff presented the Staff Report. He reported that he has received e-mail contact from two neighbors. He said one e-mail was included with the Staff Report in the agenda packet and one e-mail was provided at today's hearing as a handout. He said both correspondence requested that the screening wall requirement be eight feet. He said some neighbors received incorrect information that a five foot wall was being proposed, which would not meet the requirements of the UZC. He said the CUP calls for a 6-8 foot wall which is typical of most CUP's. In addition, there is a

requirement that dumpsters and trash collectors be screened from view and this CUP proposes a 20 foot setback. He added that building setbacks will be at least 40 feet from property lines. He said the real concern from surrounding neighbors is what is being developed at the site. He said there is no identified commercial activity at the location.

MILLER STEVENS requested clarification on surrounding zoning.

MCNEELY clarified that the church located to the east is zoned SF-5.

FOSTER asked if trash and screening can be located in the setback.

MCNEELY said screening does not require a foundation and they have never considered screening building walls and subject to the setback.

KNEBEL clarified that screening is allowed in the setback by the UZC.

RICHARDSON said access controls are shown on the CUP drawing but this has not been platted.

MCNEELY clarified those are proposed access controls to be determined at platting.

RICHARDSON suggested that the CUP drawing needs to have dimensions on the parcels. In addition, he added as a general comment that the Commissioners need CUP drawings that they can read. He asked about #7, and how it compares with the sign ordinance.

MCNEELY commented that provision #7 is more restrictive than the Sign Code.

RICHARDSON referenced #10 and asked for a definition of the phrase “extensive use” and how that would be enforced. He also asked about the terms fluorescent and backlit.

MCNEELY responded that there is no definition of “extensive use” in the UZC so he sees Commissioner Richardson’s point. He read provision #10.

WAGGONER indicated that would be difficult to prosecute.

MCNEELY said the “use of backlit canopies, neon or fluorescent tube lighting on buildings is not permitted” lumps them in all together so that any one of those extensively used is not permitted. He said Code Enforcement would consider it extensive if any one of those went the entire length of the façade.

DIRECTOR MILLER said that language is 16-18 years old and was developed to prevent a canopy or an awning that is loaded up with light so that the fabric becomes a magnifier. He said the language was designed to minimize light pollution.

RICHARDSON asked about the 6-8 foot wall and who decides that.

MCNEELY said that language is from the UZC and it’s a minimum of 6 feet, not to exceed 8 feet, or anywhere in between those two heights.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said they are in agreement with staff comments. He said he would address any questions.

FOSTER asked about room for the landscape buffer on the north side of the property.

EWY said there is approximately 15 feet for the landscape buffer and 30 feet for the drive. He clarified that there was a five foot wall “easement”. He said a five foot wall was never proposed.

DAILEY asked if it would be unreasonable to ask for an eight foot wall up against residential areas.

EWY said he did not believe it would be an unreasonable request. He said no specific user is currently going into the location. He said when they did the Turkey Creek 3rd Addition at 135th and Pawnee they did a commercial intersection. However, with Turkey Creek 1st and 2nd Additions, they regrettably did not do the commercial corner and are now having to notify 65 property owners in the area so he does not believe an eight foot fence is an unreasonable request at this juncture.

LINDA PAPPAS, 2211 SOUTH ROGERS LANE said she was present to speak for **WALLY BELL, 2222 SOUTH ROGERS LANE** who was out of town. She said his property is adjacent to the commercial property. She said they are not opposed to commercial development but they are opposed to the height of the fence. She said Mr. Bell lived next to a commercial property with a six foot fence and when the property was robbed the person jumped over the fence into his backyard. She said they want eight foot fencing or concrete. She said this would also cut down on trash which they get enough of from the vacant lot.

ERNIE ALONZA, 2311 SOUTH ROGERS LANE said his only concern is what exactly is going in the location. He said he doesn’t know what the boundaries are on what can go in there once this is approved. He said Pawnee Road is not made for any more traffic and they are constantly filling potholes in it every month. He said he is also concerned about any flashing signs. He said this is a new, quiet neighborhood that they try to keep clean. He also mentioned blowing trash and weeds on the site. He concluded by saying that he would like to find out exactly what was going in there.

MARK GRABER, 2226 SOUTH ROGERS LANE which is adjacent to the property. He said he is concerned about the height of the signage and would also like the height of wall to be at least eight feet. He said he was curious if there was a rule about signage being higher than the wall and also light from signage causing light pollution in the area. He concluded by mentioning that there was no shoulder on Pawnee west of 119th Street and he doesn’t know if that is going to be fixed before this is developed or not.

EWY said although they have dedicated right-of-way to the City under separate instrument, once they replat the property all paving and accelerator, decelerator lanes and any road improvements will be guaranteed at that time. He said they really don’t have a timeframe for development of this property; however, residential is typically around this type of commercial development so they are “catching up” so to speak. He said sign height in the CUP is 15 feet.

FOSTER clarified that any signage will probably occur along the arterial road. He also asked about restricted uses in the CUP document.

EWY said signage would occur along the arterial road. He said language in the CUP is standard and is the exact same use list as used for the CUP at 135th and Pawnee. He said all standard uses that residential would find offensive such as adult uses, liquor stores and those types of businesses are prohibited which opens it up for standard commercial retail and office type uses.

MOTION: To approve subject to staff recommendation with the addition of an eight foot wall.

DENNIS moved, **MCKAY** seconded the motion, and it carried (8-0).

MCKAY mentioned that this property is asking for LC Limited Commercial zoning and there is a big difference between that and GC General Commercial development.

DENNIS mentioned that he was also having difficulty reading the electronic version of the CUP drawings. He said he realizes that the Subdivision Committee gets hard copies of the plats and makes a recommendation to the entire Commission. He said he would like to get a better view of the CUP's electronically.

DIRECTOR MILLER said staff would look into that.

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6. **Case No.: ZON2016-00006** - Teresa Robert, Joe Labelle, SPS Investments, c/o Larry Simons, city of Wichita, c/o John Philbrick (Applicants/Owners) and Hudson Real Estate, c/o James D. Hudson (Agent) request a City zone change from MF-29 Multi-family Residential to LC Limited Commercial on property described as:

All of Lots 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, and 545 on Meridian Avenue, Martinson's 5th Addition to the City of Wichita, Sedgwick County, Kansas.

TOGETHER WITH

That part of Lots 547, 549 and 551, on Meridian Avenue, in said Martinson's 5th Addition lying within and being coincident with the following described tract of land: Beginning at the northeast corner of said Lot 547; thence southerly along the east line of said Lot 547, 5.00 feet; thence southwesterly with a deflection angle to the right of 54 degrees 00'58", 95.57 feet; thence west-southwesterly with a deflection angle to the right of 24 degrees 06'46", 53.82 feet to a point on the west line of said Lot 551, said point being 22.36 feet southerly of the northwest corner of said Lot 551; thence northerly along the west line of said Lots 551, 549 and 547, 72.36 feet to the northwest corner of said Lot 547; thence easterly along the north line of said Lot 547, 130.00 feet to the point of beginning.

TOGETHER WITH:

Lot 368, except the south 50 feet, on Richmond Avenue, (originally dedicated as Phillip Avenue), in said Martinson's 5th Addition.

TOGETHER WITH:

The south 50.00 feet of said Lot 368 as condemned for the opening and widening of Kellogg Street and designated as Tract No. 43 in District Court Case No. A-56857.

TOGETHER WITH:

All of Lot 370 as condemned for the opening and widening of Kellogg Street and designated as Tract No. 42 in District Court Case No. A-56857.

TOGETHER WITH:

That part of Lot 372 as condemned for the opening and widening of Kellogg Street and designated as said Tract No. 42 described as follows: Beginning at the northeast corner of said Lot 372; thence southerly along the east line of said Lot 372, 0.61 feet; thence west-southwesterly with a deflection angle to the right of 84 degrees 38'48", 140.61 feet to a point on the west line of said Lot 372, said point being 13.88 feet southerly of the northwest corner of said Lot 372; thence northerly along the west line of said Lot 372, 13.88 feet to the northwest corner of said Lot 372; thence easterly along the north line of said Lot 372, 140.00 feet to the point of beginning.

TOGETHER WITH:

That part of Richmond Avenue, (originally dedicated as Phillip Avenue), in said Martinson's 5th Addition described as follows: Beginning at the intersection of the east right-of-way line of said Richmond Avenue with the southeast right-of-way line of the Mo. Pac. Railroad, (formerly the St. Louis, Ft. Scott & Wichita Railroad); thence southerly along the east right-of-way line of said Richmond Avenue, 69.21 feet, more or less, to a point 13.88 feet southerly of the northwest corner of Lot 372, on said Richmond Avenue; thence west-southwesterly with a deflection angle to the right of 84 degrees 38'48", 33.55 feet to a point on the southeast right-of-way line of said Mo. Pac. Railroad; thence northeasterly along the southeast right-of-way line of said Mo. Pac. Railroad, 79.67 feet to the point of beginning.

TOGETHER WITH:

That part of the alley as dedicated in said Martinson's 5th Addition lying west of and abutting the west line of Lots 523 through 551, odd inclusive, on said Meridian Avenue, lying east of and abutting the east line of Lots 368 through 372, even inclusive, on said Richmond Avenue, (originally dedicated as Phillip Avenue), lying south and southeast of and abutting the southeast right-of-way line of said Mo. Pac. Railroad, (formerly the St. Louis, Ft. Scott & Wichita Railroad), and lying north of and abutting the following described line: Commencing at the northwest corner of Lot 551, on said Meridian Avenue, said northwest corner also being on the east right-of-way line of said alley; thence southerly along the east right of way line of said alley, 22.36 feet for a point of beginning; thence west-southwesterly with a deflection angle to the right of 78 degrees 07'44", 11.85 feet; thence west-southwesterly with a deflection angle to the right of 06 degrees 31'04", 8.44 feet to a point on the west right-of-way line of said alley, said west right-of-way line also being the east line of Lot 372, on said Richmond Avenue, originally dedicated as Phillip Avenue), and said point being 0.61 feet southerly of the northeast corner of said Lot 372, and for a point of termination.

BACKGROUND: The applicant is requesting LC Limited Commercial (LC) zoning on the 2.09-acre, platted MF-29 Multifamily-Family Residential (MF-29) zoned site. The site is located on the northwest side of North Meridian Avenue and West Kellogg Drive. The east side of the site is developed with five small, one-story single-family residences (built 1930, 1935, 1950, 1952), a residential designed manufactured home and a trailer. The City of Wichita owns the undeveloped south end of the east side and the undeveloped west portion of the site. A platted, unimproved 20-foot wide alley separates the east and west sides of the subject site.

The 54.5-acre U University (U) zoned Friends University campus (founded 1898) is the dominant development in the area and is located east of the MF-29 zoned subject site, across Meridian Avenue. An active railroad track runs southwest – northeast through the area and abuts the west and north sides of the site. TF-3 Two-Family Residential (TF-3) zoned small, one-story single-family residences and scattered duplexes (built mostly 1930-1950s) are located west and north of the site, across the railroad tracks. The subject site is separated from Friends University and the adjacent low to moderate density residential development by the active railroad tracks, the arterial Meridian Avenue and Kellogg Street/US-54 Highway.

CASE HISTORY: The site is platted as all of Lots 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, and 545, portions of Lots 547, 549 and 551 on Meridian Avenue, portions of Lot 368, 370, and 372 as condemned for the opening and widening of Kellogg Street, all in the Martinson's 5th Addition. The Martinson 5th Addition was recorded with the Register of Deeds November 6, 1886.

ADJACENT ZONING AND LAND USE:

NORTH:		Railroad, TF-3 Railroad right-of-way, single-family residences, duplexes, trailer
SOUTH:	Kellogg/US-54	US Highway
EAST:	U	Friends University campus
WEST:		Railroad, TF-3 Railroad right-of-way, single-family residences, duplexes

PUBLIC SERVICES: Public water is located in Meridian Avenue and sewer is located in the alley that separates the east and west halves of the site. The site currently has access/driveways for each of the site's residences onto Meridian Avenue. Meridian Avenue is a curbed and paved four-lane arterial with a center turn lane on its north quarter at this location and a full-curbed landscaped median on its south three-quarters up to its interchange with the Kellogg Avenue/US-54 Highway frontage street.

CONFORMANCE TO PLANS/POLICIES: The "2035 Wichita Future Growth Concept Map" of the Comprehensive Plan identifies the northeast portion of the site as appropriate for "new employment" and the west portion as appropriate for "residential development." The new employment category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. The site's new employment designation is likely a spillover from the 54.5-acre Friends University's designation as new employment center. The site's residential development designation appears to confirm the site's current single-family residential development.

The “2035 Urban Growth Areas Map” identifies the site as being in the “Established Central Area.” The Established Central Area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Established Central Area is the focus area for the Wichita Urban Infill Strategy. Commercial development in the Established Central Area should be neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses or through conversions of residential structures if appropriate site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential are provided and the scale of the development is appropriate for its context.

The locational criteria of Employment Centers states that they should be located at the intersection of arterial streets and along highways and commercial corridors. The site is located at the interchange of the arterial Meridian Avenue and Kellogg Street/US-54 Highway, which compromises the site’s existing single-family residential development. The subject site does not require nor has direct access through residential neighborhoods.

The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses including all densities of residential development. The requested LC zoning can be compatible with the new employment classification as well as the Established Central Area’s infill goal of providing neighborhood-serving retail, office uses and high-density residential uses located along arterial streets; the arterial Meridian Avenue and Kellogg Street/US-54 Highway.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed zoning be APPROVED, subject to replatting within a year. This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** The 54.5-acre U zoned Friends University campus (founded 1898) is the dominant development in the area and is located east of the MF-29 zoned subject site, across Meridian Avenue. An active railroad track runs southwest – northeast through the area and abuts the west and north sides of the site. TF-3 zoned small, one-story single-family residences and scattered duplexes (built mostly 1930-1950s) are located west and north of the site, across the railroad tracks. The subject site is separated from Friends University and the adjacent low to moderate density residential development by the active railroad tracks, the arterial Meridian Avenue and Kellogg Street/US-54 Highway.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site’s MF-29 zoning allows the current single-family residential development by right, as well as any potential duplex, multi-family residential and some office development. The site’s location on the northwest corner of the arterial Meridian Avenue – Kellogg Street/US-54 Highway interchange makes single-family residential and duplex development less attractive, as the traffic generated by the interchange compromises the value of these types of residential development.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested LC zoning allows for commercial development that is more suitable for this location at the northwest corner of the arterial Meridian Avenue– Kellogg Street/US-54 Highway interchange. The existing and active railroad track running southwest – northeast through the area and abutting the west and north sides of the site separates the site from the existing low to moderate density single-family residential development located north and west of the site across the railroad tracks.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Wichita Future Growth Concept Map” of the Comprehensive Plan identifies the northeast portion of the site as appropriate for “new employment” and the west portion as appropriate for “residential development.” The new employment category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. The site’s new employment designation is likely a spillover from the 54.5-acre Friends University’s designation as new employment center. The site’s residential development designation appears to confirm the site’s current single-family residential development.

The “2035 Urban Growth Areas Map” identifies the site as being in the “Established Central Area.” The Established Central Area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The Established Central Area is the focus area for the Wichita Urban Infill Strategy. Commercial development in the Established Central Area should be neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses or through conversions of residential structures if appropriate site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential are provided and the scale of the development is appropriate for its context.

The locational criteria of Employment Centers states that they should be located at the intersection of arterial streets and along highways and commercial corridors. The site is located at the interchange of the arterial Meridian Avenue and Kellogg Street/US-54 Highway. The subject site does not require nor has direct access through residential neighborhoods. The site abuts the interchange of the arterial Meridian Avenue and Kellogg Street/US-54 Highway, which compromises the site’s existing single-family residential development by the traffic it generates.

The purpose of the LC zoning district is to accommodate retail, commercial, office and other complementary land uses including all densities of residential development. The requested LC zoning can be compatible with the new employment classification as well as the Established Central Area’s infill goal of providing neighborhood-serving retail, office uses and high-density residential uses located along arterial streets; the arterial Meridian Avenue and Kellogg Street/US-54 Highway.

Impact of the proposed development on community facilities: The site will generate more traffic onto the interchange of the arterial Meridian Avenue and Kellogg Street/US-54 Highway. The site will also require a drainage study, via a replat of the site, because of the probable increase of paving due to the possible commercial development.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that there was additional dialogue after the Staff Report was mailed out. He said he e-mailed an updated PO as a result of that dialogue between representatives of Friends University and the applicant. He said a copy of that PO has also been provided as a handout. He said the list of prohibited uses includes uses that are not compatible such as industrial type uses, nightclubs, drinking establishments, taverns, kennels, farmers market, garden centers, etc. and other uses that would require a conditional use and public hearing. He said staff is okay with the PO.

Proposed Protective Overlay (PO) for ZON2016-00006

The following uses are prohibited: Correctional placement limited and general, recycling collection station private and public, reverse vending machine, animal care limited and general, construction sales and service, event center, farmer's market, kennel, hobby/boarding/breeding/training, marine facility recreational, nightclub, nurseries and garden centers, commercial parking, pawnshop, indoor recreation and entertainment, tavern and drinking establishment, asphalt plant limited and general, manufacturing limited, mining and quarrying, oil and gas drilling, rock crusher, solid waste incinerator, agricultural sales and service.

The purpose of the PO is to ensure compatible uses with Friends University and the area.

JIM HUDSON, PO BOX 48643, AGENT FOR THE APPLICANT said he had a short presentation that he would skip and just answer questions.

MILLER STEVENS said she always gets a little suspect when the City is part of the deal. She said quite a few residents signed off on this. She asked do they own these homes, are they being relocated and are they being compensated. She said this is a cozy residential area, what is going on.

HUDSON he said they have purchase contracts on all the residential properties and all the owners are in agreement with the sale and redevelopment of this property. He said some of the properties are rental properties and some are owner/occupied.

MILLER STEVENS asked what is going in there.

HUDSON said they are proposing a convenience store.

TODD asked for clarification as to what part of the application area was owned by the City.

HUDSON said the City owns the area behind the homes to the south.

MOTION: To approve subject to staff recommendation with the PO.

TODD moved, **DAILEY** seconded the motion, and it carried (8-0).

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7. **Case No.: CUP2016-00002** - Tipperary Group, LLC (Owner) and Stutzman Greenhouse, c/o Ron Peters (Lessee) request a City CUP Amendment to DP-111 Parcel 1 to permit Nursery and Garden center in LC Limited Commercial zoning on property described as:

The South 425 feet of the East 465 feet of Lot 2, Block 1, Mediterranean Plaza Commercial Second Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting DP-111 Mediterranean Park Commercial Community Unit Plan Amendment #7 to add a seasonal nursery and garden center to Parcel 1 on property zoned LC Limited Commercial ("LC"). The garden center site would be situated within the parking lot of Parcel 1, located on the east side of North Rock Road approximately 730 feet north of East 29st Street North.

A nursery and garden center is permitted in LC if it can comply with the outdoor storage and display requirements of the Unified Zoning Code ("UZC") Article III, Section III-B.14.e(2) and (3); otherwise a nursery and garden center must be approved as a Conditional Use or CUP amendment.

The nursery and garden center would be in operation from April 1 to October 30 of each year. Daily operations would be 8:00 A.M. to 7:00 P.M., or dusk, seven days a week. The footprint of the nursery and garden center display area would be 80 feet by 60 feet, or 4,800 square feet and would be located within the main parking lot closest to North Rock Road, just west of the Northrock Lanes building. A storage barn (12 feet by 32 feet) and a shade structure (80 feet by 60 feet) are shown on the site plan, with the balance of the area to be merchandise display. The applicant has indicated that they have deliveries via a box truck twice a week and that the deliveries take approximately 45 minutes. Any excess pallets or materials will be taken off the site by the box truck making deliveries. No trucks will be parked onsite overnight. Concrete blocks with landscape timbers, metal tables and some pallets set up on concrete blocks will be used for the display (display tables) of merchandise for sale. Merchandise will include plants, compost, mulch potting soil, spray wands, small hand gardening tools. The display tables will be left up overnight. Restroom facilities are available inside a nearby retail facility. The site plan shows no lights and none should be required as the applicant's proposed hours are daylight hours. The applicant has not requested signage, although it can be expected that they will want some type of temporary signage; signage will be per the Wichita Sign Code.

The garden center would increase the total required parking spaces by 4 spaces, and will be temporarily removing 34 spaces. The parcel contains 378 total spaces. According to GIS, the lot contains approximately 198,000 square feet and an existing 52,000 square foot entertainment use on the lot. The parking requirement for the existing bowling alley is 192 spaces (4 spaces per lane (48 lanes)). The availability of 378 total spaces is more than enough for the current use and the proposed additional seasonal garden center.

Surrounding development, north, south and west of the subject site is zoned LC Limited Commercial ("LC") and developed with retail and general office uses to the north, restaurants to the west and Wal-Mart to the south. Development to the east is zoned GC General Commercial and is developed vacant a theater complex.

CASE HISTORY: The property is platted as South 425 Feet, East 465 Feet, Lot 2; Block 1, Mediterranean Plaza Commercial 2nd Addition, recorded September 27, 1988, and the CUP was originally approved November 3, 1981. It has been amended several times. The most recent amendment (Amendment #6) was approved April 24, 2008, and there has been a number of adjustments on the CUP, the most recent being on October 3, 2007. None of these amendments or adjustments affect this case.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail/General Office
SOUTH:	LC	Wal-Mart
EAST:	GC	Vacant Commercial Structure
WEST:	LC	Restaurants (Fast Food/Sit-down)

PUBLIC SERVICES: The property has direct access to North Rock Road, a four-lane principal arterial street with right/left-turn center lane. A full movement access drive is located onto North Rock Road. Traffic counts in 2015 averaged 24,000 vehicles per day.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for commercial types of uses. This identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality.

The Locational Guidelines of the Community Investments Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.

RECOMMENDATION: Based on the information provided prior to the public hearing, staff recommends the request for Amendment #7 to DP-111 be APPROVED subject to the following conditions:

1. A seasonal nursery and garden center shall be permitted by this amendment in Parcel 1. The CUP document shall be revised to add the Unified Zoning Code (UZO) requirements for the nursery and garden center.
2. The applicant shall submit a revised site plan for the seasonal nursery and garden center that complies with these conditions of approval. The site plan and any attachments shall be reviewed and approved by the Planning Department prior to issuance of any temporary building permit for this use. The site plan shall be oriented to direct traffic and parking patterns away from interference with the main circulation aisles within Parcel 1.
3. The seasonal nursery and garden center shall be located in temporary structures accompanied by outdoor display space as shown on the approved site plan and attachments compliant with these conditions.
4. Operation of the seasonal nursery and garden center shall be April through October, 8AM – 7PM/dusk, Monday – Sunday. There will be a week allowed before and after this period of operation for erecting and removing the temporary structures.
5. All outdoor work and storage areas, such as areas storing empty carts or containers, shall be screened from ground level view by approved screening materials, in conformance to Article IV, Section IV-B of the UZO.

6. No outdoor lighting shall be added. No generators shall be used to provide power to the site. No outdoor speakers or amplifiers shall be allowed. Water shall be supplied from an approved water supply.
7. Restroom facilities for employees must be provided and may be provided by agreement with a permanent use in the center upon approval of the Director of the MABCD. No portable-potties are allowed.
8. No temporary buildings shall be located within any setbacks or easements.
9. Permitted merchandise for sale shall be plants, plant materials, gardening supplies (including sacked fertilizer and sacked mulch), pottery for plants and gardening tools, limited to non-motorized hand tools.
10. The use shall be operated in conformance with all requirements of Article III, Section III-D.6.z of the UZC for a nursery and garden center on property zoned LC and with all requirements of Article III, Section III-B.14.e of the UZC pertaining to outdoor display and outdoor storage in LC unless specifically modified herein.
11. Signage shall be per the Wichita Sign Code.
12. A change in the location, within Parcel 1, in subsequent years may be considered as an Administrative Adjustment.
13. Prior to utilization of the nursery and garden center use, the operator (owner or lessee who seeks the temporary building permit) shall annually submit a report to the Zoning Enforcement Division of MABCD that demonstrates compliance with the approved site plan (See Exhibits) and conditions specified herein.
14. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
15. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
16. The applicant shall submit four revised copies of the CUP and the site plan for the seasonal nursery and garden center to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding development, north, south and west of the subject site is zoned LC Limited Commercial ("LC") and developed with retail and general office uses to the north, restaurants to the west and Wal-Mart to the south. Development to the east is zoned GC General Commercial and is developed vacant a theater complex.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could continue to operate with the current requirements of the CUP.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact would be to reduce the amount of parking available to other businesses within the center, particularly during peak garden center business times in late April and early May. The other impacts would be conflicts with traffic circulation within the center, which will be mitigated by having the entrances to the garden center away from main circulation aisles.
4. Length of time the subject property has remained vacant as zoned: The site is not vacant, rather this is a request to intensify and diversify the types of retail uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for commercial types of uses. This identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Community Investment Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.
6. Impact of the proposed development on community facilities: Addition of the garden center should attract more retail traffic during the seasonal sales times, which would increase the volume of traffic on North Rock Road and 29st Street North slightly.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

RICHARDSON said he thought two different people on staff handled this case and #9. CON2016-0003 which were both for seasonal nurseries and garden centers. He said the amendment to the CUP has a lot of restrictions about hours and other items that are not on the conditional use. He asked what was the difference.

SLOCUM indicated that he handled both cases. He said with the CUP they are adding an additional use, so he had to list all the other restrictions included in the CUP document. He said the other case is for a conditional use so they are not adding conditions into a document. He said the conditional use is a standalone use, whereas the UZC lays out a number of restrictions required for CUP's.

RICHARDSON asked how that compares to restrictions put in the CUP such as no outdoor lighting, not outdoor restrooms, etc.

SLOCUM said the CUP is more restrictive than the conditional use. He said he listed what is allowed per the UZC.

MOTION: To approve subject to staff recommendation.

MILLER STEVENS moved, **TODD** seconded the motion, and it carried (8-0).

8. **Case No.: CON2016-00001** - Kevin and Krystal Klein, Stuhlsatz Revocable Trust (Owners) and Nextera Energy, c/o Sam Massey (Agent) request a County Conditional Use for a Utility, Major in RR Rural Residential zoning on property described as:

Kevin and Krystal Klein, Stuhlsatz Revocable Trust (owners); Nextera Energy, c/o Sam Massey (agent)

BACKGROUND: The applicants request a Conditional Use for an electric substation on the undeveloped RR Rural Residential (RR) zoned site, see the attached site plans submitted by the applicant. The Unified Zoning Code's (UZC) definition of a "utility, major" includes electrical substations; UZC, Article II., Section II-B.13.i. The UZC permits a utility, major in the RR district only with Conditional Use approval. The unplatted site is located north of West 13th Street North and ¼-mile west of North 279th Street West.

The agent for the applicants indicates that the site will provide "gen-tie line connecting wind generation projects to the electrical transmission system." Elevated electric transmission lines on poles exist on the site, extending northeast and south of the site. The County Tax Assessor lists the current land use of the site as agriculture. All surrounding property is also zoned RR and used for agriculture. Three residences are within ¼ mile of the site. The nearest residence is over 900 feet south of the site; the residence has a tree row between it and the site.

The site plan shows the electrical substation located within in a 700-foot by 800-foot area enclosed by an eight-foot tall chain-link fence with a three-strand, angled, barbed wire top. The site plan shows one small building with a 16-foot height. The applicant indicates that evergreen trees will be planted around the site at 8-foot intervals. The site plan indicates a 20-foot setback located parallel to the east and west property lines, a 25-foot setback located parallel to the south property line and a 30-foot setback located parallel to the north property line. These setbacks reflect the minimum RR zoning district's setbacks. The applicant filed a one-lot plat for the subject property and property connecting the site to 13th Street North (SUB2016-04).

CASE HISTORY: RR zoning was established with county-wide zoning in 1985; R Rural Residential (R) became RR Rural Residential in 1996 with the adoption of the UZC.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural fields
SOUTH:	RR	Single-family residences, agricultural fields,
EAST:	RR	Agricultural fields
WEST:RR		Agricultural fields

PUBLIC SERVICES: Access to the site is via West 13th Street North, an unpaved section line road at this location. Traffic to and from the site will be minimal. The site is not served by public water or sewer.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as "Rural." This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, subject to platting within one year and the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and landscape plan, and in compliance with all applicable laws and regulations.
2. A Site plan and landscape plan shall be submitted to staff within 60 days of final Conditional Use approval or the request shall be considered denied and closed.
3. Lighting shall be no taller than 12 feet and shall be directed away all residential uses and zoning.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All surrounding property is zoned RR and used for agriculture. Three residences are within ¼ mile of the site. The nearest residence is over 900 feet south of the site; the residence has a tree row between it and the site.
2. **The suitability of the subject property for the uses to which it has been restricted:** The electric substation site is zoned RR. The RR zoning district supports agricultural activity, as demonstrated in the agricultural use of the site and on surrounding property. The RR district maintains a low density development pattern with a two-acre minimum lot size for residential development.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The electrical substation will be a visual change to the area; this visual change will be buffered from surrounding properties with open space and proposed landscaping. The proposed substation will generate less traffic than the single-family residences in the area and possibly the agricultural uses in the area, minimizing the impact on 13th Street North.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request will enhance the ability to provide electricity to the region. Denial would presumably be an economic loss to the applicant and cause the utility a delay in developing the infrastructure necessary to meet future demand.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “Rural.” This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area.

6. **Impact of the proposed development on community facilities:** The proposed facility should have a minimal impact on existing community facilities, and will improve the ability to provide power to the region.

JESS MCNEELY, Planning Staff presented the Staff Report.

RICHARDSON asked about the legal description. He said the Subdivision Committee heard a one-step final plat that did not have the same dimensions as this. He said he didn't see any dimensions or legal description of what they are being asked to approve. He also asked what Buffalo Flats referred to since that was not the name of the plat. He said maybe it is the name of the substation.

MCNEELY said the legal description submitted to staff creates this 1/8 section application area, highlighted on the map. He said the plat includes property to the south for access. He said the conditional use for the utility has to stay within the highlighted area and that does not include the access area.

SAM MASSEY, AGENT FOR OWNER NEXTRA RESOURCES said they are in agreement with staff comments. He said they have employed a local landscape architect and the plan will be in compliance with local regulations.

RICHARDSON asked if Buffalo Flat is part of the internal nomenclature.

MASSEY indicated that will be the name of the substation itself.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **RICHARDSON** seconded the motion, and it carried (7-1). **FOSTER** – Abstained.

- 9. **Case No.: CON2016-00003** - Dan Copps, GIMJ, LLC (Owner) and Stutzman Greenhouse, Inc. (Applicant/Agent) request a City Conditional Use for a seasonal nursery on LC Limited Commercial zoned property on property described as:

Lot 2, Block 2, Second Addition to Queen's Lake, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking a Conditional Use for a seasonal nursery and garden center on 1.03 acres of platted LC Limited Commercial ("LC") zoned land located northeast of North Silver Springs Boulevard and West Central Avenue (6820 West Central Avenue). The site contains an approximately 12,200 square-foot vacant commercial building, formerly used as a restaurant, with 199 on-site parking spaces. The property has two driveways off of North Silver Springs Boulevard and one driveway off West Central Avenue. The property has nearly 257 feet of frontage along West Central Avenue, and the plat shows a 50-foot building setback located along West Central Avenue.

Stutzman Greenhouse, Inc. proposes to install a 60-foot by 120-foot shade house, with additional area around the shade house for additional display, the total area being 75-feet by 145- feet in the existing parking lot located just south and east of the site's commercial building. The sales and display area will occupy approximately 10,875 square feet, and the display area will take up 51 of the site's 199 parking spaces which results in 148 remaining off-street parking spaces. The nursery and garden center is proposed to be in operation from April to the end of October. The applicant hopes to use the site on seasonal basis for as long as the property owner permits. (See the attached site plan.)

The "Wichita-Sedgwick County Unified Zoning Code" (UZC) permits "nurseries and garden centers" in the LC district by right provided the use complies with the development standards contained in Article III, Section III-D. 6.z, including the outdoor display and storage limitations of the LC district found at Article III, Section III-B.14.e(2). Merchandise that is for sale within a building may be displayed in areas immediately contiguous to and within 10 feet of the building, subject to the following standards (in part):

- (a) No portion of the display area shall be on publicly owned property unless the applicant shall have obtained appropriate approval for such use from the governing body.
- (b) No required off-street parking space or loading space shall be utilized for display.
- (c) No food or drink shall be displayed outside the building except in accordance with standards and prior written approval of Environmental Health.
- (d) These provisions shall in no way be deemed to authorize the outdoor display of motor vehicles, rental trailers, rental equipment, used furniture, used appliances, used plumbing, used housewares, used building materials or similar items, except as such may otherwise be authorized under an appropriate section of the Code.

A "nursery and garden center" that does not comply with the Code's development standards may be permitted by "conditional use" subject to the development standards contained in Article III, Section III-D. 6.z, which reads in part:

- (1) The property shall be contiguous to an arterial street or expressway or be located within a portion of the LC district or a more intense use district that is contiguous to such a street.
- (2) Screening shall be provided as deemed appropriate and necessary to provide protection to adjacent properties; however, under no circumstance shall the screening be less than that required by Sec. IV-D of the UZC or that required by an approved development plan.
- (3) Display and storage of merchandise, nursery stock, landscaping materials and equipment must be within an enclosed building; within an area enclosed by screening fence deemed necessary for the protection of adjacent properties; or be displayed in areas immediately contiguous to the buildings, provided any display or storage shall not be located within 25 feet of public right-of-way and shall not occupy required off-street parking spaces.
- (4) All lights shall be shielded to reflect or direct light away from adjacent properties. No string-type lighting shall be permitted.
- (5) No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
- (6) Any repair or servicing of vehicles or equipment shall only be permitted within an enclosed building.

- (7) A site plan showing all structures, all ingress, egress, off-street parking, off-street loading space, on-site circulation, storage and display areas shall be submitted with the application.
- (8) Areas for the growing of plants and nursery stock may be permitted in greenhouses or in open areas as designated by the applicant and approved by the Planning Commission.
- (9) Any vehicle used in conjunction with the business may be stored within the main structure, an enclosed garage, or when approved by the Planning Commission as to adequate screening material and location, within an enclosed compound on the property.
- (10) The Planning Commission may, in the process of the conditional use request, determine the number of parking spaces and loading spaces required for the use.
- (11) The Planning Commission may establish other conditions deemed necessary for the protection of adjacent property and may also require periodic reporting of compliance with all conditions of approval.

Land located south, east and west of the application area is zoned LC and developed with a variety of non-residential uses, such as: office, restaurant, retail, bank and strip/mini mall. Property north of the site is zoned MF-29 Multi-family Residential ("MF-29") covered by CUP DP-26 and is developed with a large apartment complex.

CASE HISTORY: The application area is Lot 3, Block 2; 2nd Addition to Queen's Lake that was recorded in 1981.

ADJACENT ZONING AND LAND USE:

North: MF-29	Apartment Complex
South: LC	Strip Mall
East: LC	Restaurant
West: LC	Bank

PUBLIC SERVICES: The site is served, or can be served, by all normally supplied municipal services. West Central Avenue is a four-lane arterial with additional right-turn and left-turn lanes that carries an average daily traffic volume in excess of 30,000 vehicles.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for commercial types of uses. This identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality.

The Locational Guidelines of the Community Investments Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended the application be approved subject to the following conditions:

- A. The conditional use permits a "nursery and garden center" developed in substantial conformance with the approved site plan. The conditional use does not prohibit uses permitted by-right in the LC zoning district.

- B. The “nursery and garden center” shall be constructed, maintained and operated in general conformance with the approved site plan and in conformance with applicable local, state or federal regulations or codes, including but not limited to zoning, building, fire, health, unless specifically modified by this conditional use or subsequent adjustments or amendments.
- C. The conditional use permitting the “nursery and garden center” shall be effective so long as the building located on the site is vacant or is used in association with a nursery or garden center or can provide the minimum required off-street parking spaces required for all the uses located on the property.
- D. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property surrounding the application area is predominantly zoned LC and developed with office, retail and commercial uses, with a MF-29 zoned apartment complex north of the subject site. West Central Avenue is a major transportation artery that carries in excess of 30,000 vehicles on an average daily basis. West Central Avenue, between Ridge Road and I-235 is lined with nonresidential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC which permits a wide range of residential, office and retail commercial uses, which should make it attractive for a wide range of uses. The site is developed with a vacant commercial building and associated parking.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The conditions of approval should address any anticipated detrimental impacts generated by the site.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would add another “nursery and garden center” to the community’s horticultural offerings. Denial would presumably be an economic loss to the property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for commercial types of uses. This identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Community Investments Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.
6. Impact of the proposed development on community facilities: None identified.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MILLER STEVENS moved, **TODD** seconded the motion, and it carried (8-0).

DIRECTOR MILLER said at the next meeting he would be bringing a proposed change for the Commissions consideration to Policy #5 on the platting requirement of within one year of zoning to eliminating the requirement entirely.

The Metropolitan Area Planning Commission adjourned at 3:12 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)